

A RESOLUTION

01- *R* -1388

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE  
AMOUNT OF \$5,945.00 IN SETTLEMENT OF THE CLAIM  
OF DAVID L. BAUGH AGAINST THE CITY OF ATLANTA**

**WHEREAS**, David L. Baugh has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups to his property located at 1266 Centra Villa Drive; and

**WHEREAS**, the property owned by David L. Baugh has been damaged due to several occurrences of sewer back ups due to a blockage in the mainline which the City had knowledge of prior to the overflows which occurred on May 5, May 30, June 9, 2001; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in the amount of \$5,945.00 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of David L. Baugh be settled for the sum of \$5,945.00.

**THEREFORE, BE IT RESOLVED** by the Council of the City of Atlanta, Georgia that \$5,945.00 be paid by the City of Atlanta in satisfaction of any and all claims David L. Baugh owner of property located at 1266 Centra Villa Drive may have stemming from damages sustained to his property on or about May 5, May 30, and June 9, 2001.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

**DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY**

Claim No. 01L0320 & 01L0386

Date: August 16, 2001

Claimant /Victim DAVID L. BAUGH

BY: (Atty)(Ins. Co.) \_\_\_\_\_

Address: 1266 Centra Villa Drive, Atlanta, Georgia 30311

Subrogation: \_\_\_\_\_ Claim for Property damage \$ 5,945.00 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 05/04/01 Method: Written, proper X Improper \_\_\_\_\_

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 05/05/01, 05/03/01 & 06/09/01 Place: 1266 Centra Villa Drive

Department Public Works Division: Sewer Operations

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

**NATURE OF CLAIM:** The claimant's property was damaged due to a series of sewer back ups into his property. The City was on notice of a problem with the sewer line prior to this incident.

**INVESTIGATION:**

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

**BASIS OF RECOMMENDATION:**

Function: Governmental X Ministerial \_\_\_\_\_

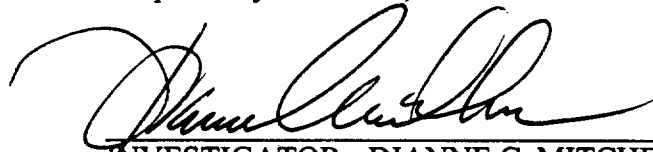
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable X

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

**RECOMMENDATION:**

Pay \$ 5,945.00 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_

Claims Manager:  Concur/date 08-16-01

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: **RECEIVED**

JUN 06 2001

Dear Municipal Clerk:

ENTERED - 6-20-01 - SB  
01L0386 - DIANNE MITCHELL

MUNICIPAL CLERK

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 5,945.00 property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: May 30, 2001 (month/day/year) 2. Time of Incident: 9:00 am 3. Police called: Yes ☒ No ☐
4. Location of incident (including street address): 1266 Centra Villa Dr Atlanta GA 30311
5. Name of your insurance company: STATE FARM Policy No. 0411-5613
6. State what and how incident occurred: Sewer backed up in basement

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_  
(Name) (Address) (Telephone Number)

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

David L Baugh  
Signature of Claimant

DAVID L BAUGH  
(Print Claimant's Name)

1266 Centra Villa Dr  
(Address)

Atlanta GA 30311  
(City, State and Zip Code)

404 252-3344 404-753 5034  
(Work Number) (Home Number)

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 01L0320 and 01L0386

\$ 5,945.00

IN CONSIDERATION of the sum of FIVE THOUSAND NINE HUNDRED FORTY-FIVE AND NO/100 DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of property damage due to a sewer back up

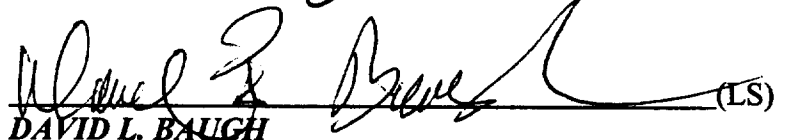
which occurred between May 5, May 30 and June 9, 2001,

at or near 1266 Centra Villa Drive

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

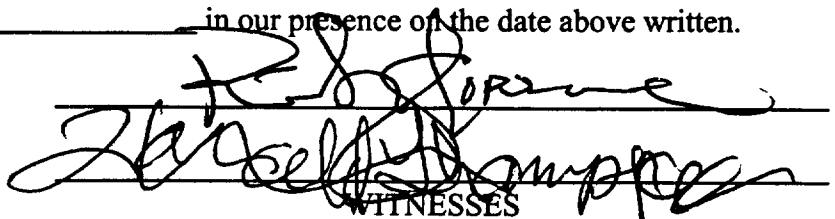
And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

WITNESS my hand and seal this 18th day of August, 2001.

  
DAVID L. BAUGH (LS)

The above release was read and explained to, and signed by the said Claimant

  
in our presence on the date above written.

  
WITNESSES